

Excerpts  
Planning Commission Minutes  
April 11, 2001

**Application No. UP-575-01, Stephen D. Ashe:** Request for a special use permit, pursuant to Section 24.1-407(c) of the York County Zoning Ordinance, to authorize a 965-square-foot detached accessory apartment in conjunction with a single-family detached dwelling on an 8.2 acre parcel located at 231 Jethro Lane and further identified as Assessor's Parcel No. 25-451B. The property is zoned RR (Rural Residential) and is designated for Low-Density Residential uses in the Comprehensive Plan.

Mr. Michael King summarized the staff memorandum dated March 30, 2001, following a brief video presentation. He noted the staff recommendation of approval by the adoption of proposed Resolution PC01-15.

The Chair opened the public hearing. No one came forward to speak, and he closed the hearing.

Ms. White inquired what the disposition would be of the existing ranch-style residence proposed for conversion to a combination accessory apartment/storage space if the application is not approved. Mr. Carter replied that before the building permit for the new residence was issued, the applicant signed an agreement to demolish the existing house before he would be issued a Certificate of Occupancy (C.O.) for his new residence.

Asked if that was accurate, Mr. Stephen Ashe, 231 Jethro Lane, said that it was. He said he was ready to build at the time he approached the County and, after considering several options, he posted surety with the Building Official to guarantee demolishing the existing house before being issued a C.O. He said he was aware at the time that he would need "to go through this process" if he wanted to avoid demolishing the existing residence, but he did not have enough time. Mr. Ashe said he had several family members who could use the existing home and he was trying to look out for his family.

Mr. Simasek asked Mr. Ashe if he never intended to demolish the existing house, and Mr. Ashe responded that was correct, because he needed a building permit and that was "the avenue [he] decided to go." Mr. Simasek asked Mr. Ashe about the feasibility now of demolishing the portion of the existing house that is proposed for conversion to storage and leaving only the proposed accessory apartment area. Mr. Ashe noted that the house was constructed only 20 or 30 feet from the water in what is now a Chesapeake Bay Resource Protection Area, so he did not want to disturb the area. For that reason, he added, he had constructed his new residence more than 100 feet from the water.

Mr. Shepperd said this application does not appear to be inconsistent with other accessory apartments except that it has two houses on a larger piece of property. He was uneasy with the number of accessory apartments that have recently been approved and was not enthusiastic about considering another one in the absence of firm guidelines. Mr. Simasek said he believed each application should be decided on its own merits and he didn't think the Commission would be held to what was approved in the past.

Ms. White commented that there are now two houses on one lot. Mr. Beil inquired if one septic field serves both houses and Mr. King advised separate septic fields will serve them.

Mr. Shepperd inquired about any tax ramifications of converting a 2,200 square foot residence into an apartment/storage structure and Mr. King said he did not know and that staff had not considered that because it is not relevant from a land use perspective.

Mr. Heavner asked if the applicant would have other options for the property, such as subdividing it, if the application is denied. Mr. Carter said the family subdivision process would be a likely option. Mr. King said that other alternatives, such as the family subdivision process, were available to the applicant but Mr. Ashe chose not to exercise those alternatives. Mr. King also said that eight acres is sufficient to subdivide the property.

Ms. White said it appeared that by closing off entrances the conversion would amount to a duplex unit. Mr. Semmes added that is unique for an accessory apartment. Mr. Semmes said his understanding of an accessory apartment was a small addition providing basic amenities and a separate external entrance. He asked if the existing structure is a second house or an accessory apartment because it was hard to see the difference.

Mr. Shepperd thought enforcement would be problematic since the neighbors would be unable to enforce the use.

Mr. Carter noted that the Zoning Ordinance allows accessory apartments to be either attached to or detached from the main house and, in fact, the Board has recently approved a 950-square-foot, detached accessory apartment [on Winfree Lane].

Mr. Hendricks moved the adoption of Resolution PC01-15 to recommend approval, and it carried by a roll call vote of 4:3 (Beil, White and Hendricks dissenting).

#### PC01-15

On motion of Mr. Hendricks, which carried 4:3, the following resolution was adopted:

#### **A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT TO AUTHORIZE A DETACHED ACCESSORY APARTMENT**

WHEREAS, Stephen D. Ashe has submitted Application No. UP-575-01 to request a special use permit, pursuant to Section 24.1-407(c) of the York County Zoning Ordinance, to authorize a detached accessory apartment in conjunction with a single-family detached dwelling on property located at 231 Jethro Lane and further identified as Assessor's Parcel No. 25-451B; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has given careful consideration to the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 11th day of April, 2001, that it does hereby transmit Application No. UP-575-01 to the York County Board of Supervisors with a recommendation of approval, subject to the following conditions:

1. This use permit shall authorize a detached accessory apartment in conjunction with a single-family detached dwelling to be constructed on property located at 231 Jethro Lane and further identified as Assessor's Parcel No. 25-451B.
2. Building plans shall be in conformance with the drawings submitted by the applicant and shall be submitted to and approved by the York County Department of Environmental and Development Services, Division of Building Regulation, prior to the commencement of any construction or conversion activities on the site.
3. Not more than one (1) accessory apartment shall be permitted in conjunction with the principal dwelling unit.
4. The accessory apartment unit shall not contain in excess of 965 square feet.
5. The accessory apartment unit shall contain no more than one (1) bedroom.
6. Adequate provisions shall be made for off-street parking of motor vehicles in such a fashion as to be comparable with the character of the single-family residence and adjacent properties.
7. The accessory apartment shall not be rented separate from the principal dwelling and shall be occupied only by family members or guests of the occupant of the single-family dwelling.
8. As depicted on the sketch submitted to the Planning Division and dated March 9, 2001, the applicant shall convert the designated portions of the structure to storage space accessory to the principal residence on the property. Compliance with this requirement shall include the removal of all non-load bearing walls in the current bedrooms section of the structure, the installation of an outside entrance into this section of the structure, the closing of any passageways into this section from the accessory apartment, and installation of any fire separation walls that may be required by the Building Code. Implementation of this conversion shall be coordinated with the Building Official and shall be completed, and approved by the Building official and the Code Enforcement Supervisor, prior to issuance of the Certificate of Occupancy for the accessory apartment.
9. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.